

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 3-2-2020

IN RE NAMENDA INDIRECT PURCHASER
ANTITRUST LITIGATION

[All Actions]

C.A. No. 15-cv-6549-CM-RWL

[PROPOSED] QUALIFIED PROTECTIVE ORDER
FOR PROTECTED HEALTH INFORMATION

Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure and 45 C.F.R. § 164.512(e)(1), the Court finds good cause for the issuance of this qualified protective order and ORDERS as follows:

1. Plaintiffs, Defendants, and their attorneys are hereby authorized to receive, subpoena, and securely transmit “protected health information” pertaining to the above-captioned litigation (the “Action”).
2. For purposes of this Stipulated Qualified Protective Order for Protected Health Information (the “Order”), “Protected Health Information” shall encompass (a) information within the scope and definition set forth in 45 C.F.R. §§ 160.103 and 164.501 that is (b) provided to the parties in the course of the above-captioned litigation. “Protected Health Information” includes, but is not limited to, health information, including demographic information, relating to either (a) the past, present, or future physical or mental condition of an individual, (b) the provision of care to an individual, or (c) the payment for care provided to an individual, which identifies an individual or with respect to which there is a reasonable basis to believe the information can be used to identify an individual.

3. The Parties hereby agree that Protected Health Information shall not be used for any purpose other than the Action, including any appeals. Use in this action includes, but is not limited to, disclosure to (a) Counsel for the Parties and employees of counsel who have responsibility for the Action; (b) the Court and its personnel; (c) Court reporters; (d) experts and consultants; and (e) other entities or persons involved in the Action.

4. Counsel for the Parties shall take all other reasonable steps to ensure that persons receiving Protected Health Information do not use or disclose such information for any purpose other than the above-captioned litigation, and no such disclosure will be made until the individual receiving Protected Health Information has signed a written agreement to abide by the terms of this Order, set forth in Attachment A, Acknowledgement of Understanding and Agreement to be Bound.

5. Within sixty days after dismissal or entry of final judgment not subject to further appeal, the Parties shall return Protected Health Information to the covered entity or destroy all copies of Protected Health Information pertaining to the Action, *except* that Parties are not required to secure the return or destruction of Protected Health Information submitted to the Court. Any Protected Health Information destroyed pursuant to this paragraph must be destroyed pursuant to the United States Department of Health and Human Services' *Guidance to Render Unsecured Protected Health Information Unusable, Unreadable, or Indecipherable to Unauthorized Individuals*.¹

6. Nothing in this Order authorizes the parties to obtain medical records or information through means other than formal discovery requests, subpoenas, depositions, pursuant to a patient authorization, or any other lawful process.

¹ This *Guidance* provides for, *e.g.*, shredding or destroying any paper, film, or hard copy media such that the Protected health Information cannot be read or reconstructed; and clearing, purging, or destroying electronic media consistent with NIST Special Publication 800-88, *Guidelines for Media Sanitation*, such that the Protected Health Information cannot be retrieved.

SO ORDERED.

Dated: 3/2/20, 2020


The Honorable Robert W. Lehrburger
United States Magistrate Judge

ATTACHMENT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE NAMENDA INDIRECT PURCHASER
ANTITRUST LITIGATION

[All Actions]

C.A. No. 15-cv-6549-CM-RWL

ATTACHMENT A TO THE
STIPULATED QUALIFIED
PROTECTIVE ORDER FOR
PROTECTED HEALTH
INFORMATION:
ACKNOWLEDGEMENT AND
AGREEMENT TO BE BOUND

The undersigned hereby acknowledges that he/she has read the Stipulated Qualified Protective Order for Protected Health Information (the “Order”) dated _____ in the above-captioned action and attached hereto, understands the terms thereof, and agrees to be bound by its terms. The undersigned submits to the jurisdiction of the United States District Court for the Southern District of New York in matters relating to the Order and understands that the terms of the Order obligate him/her to use Protected Health Information solely for the purposes of the above-captioned action, and not to disclose any such Protected Health Information to any other person, firm or concern, except in accordance with the Order.

The undersigned acknowledges that violation of the Order may result in penalties for contempt of court.

Name: _____

Job Title: _____

Employer: _____

Business Address: _____

Date: _____

Signature